

P20836

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
ORDER

Application 29407

Permit 20836

License _____

ORDER CORRECTING PERMIT CONDITION AND AMENDING PERMIT

Whereas:

1. Permit 20836 was issued to California Department of Fish and Game on April 11, 1996 pursuant to Application 29407.
2. The Division of Water Rights found a typographical error in Permit Condition 18 of said permit. The condition imposes flow requirements on the permittee that are inconsistent with the flow requirements of both senior and junior water rights in the same watershed.
3. The Division of Water Rights proposes to correct the error under the SWRCB's continuing authority to amend permits to provide consistent protection to prior rights and public trust resources.
4. The State Water Resources Control Board has determined that the correction does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

NOW, THEREFORE, IT IS ORDER THAT:

1. Condition 18 of the permit be amended to read:

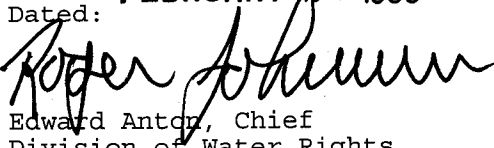
For the protection of the fish and wildlife in Huichica Creek, diversion under this permit shall be subject to maintenance of the following minimum flows in Huichica Creek:

- A.) from October 1 through November 30,
two cubic feet per second;
- B.) from December 1 through February 29,
ten cubic feet per second;
- C.) from March 1 through June 15,
two cubic feet per second.

No freshwater diversion shall take place under this permit if the flow in Huichica Creek is, or would be reduced by such diversion, below the designated rates. To ensure compliance with this condition, by July 1 of each year permittee shall file a report with the Chief, Division of Water Rights containing the following information:

- A.) Dates during the previous period of October 1 through June 15 when water was diverted; and
- B.) Freshwater flows measured in Huichica Creek under this permit during the same dates when water was diverted.

Dated: **FEBRUARY 24 1998**

for 
Edward Antor, Chief
Division of Water Rights.

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Recreation	NE¼ of SE¼	12*	4N	5W	MD	
Wildlife Enhancement	NW¼ of SW¼	7	4N	4W	MD	150

* projected

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 1000 acre-feet per annum to be collected from October 1 of each year to June 15 of the succeeding year. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005i)

The maximum rate of diversion to offstream storage shall not exceed 2.5 cubic feet per second. (000005J)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)

8. Construction work shall be prosecuted with reasonable diligence and shall be completed by December 31, 2001. (0000008)

9. Complete application of the water to the authorized use shall be made by December 31, 2005. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

(0000011)

12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

14. After the initial filling of the storage reservoirs, permittee's right under this permit extends only to water necessary to keep the reservoirs full by replacing water lost by evaporation and seepage and to refill if emptied for necessary maintenance or repair. Such right shall be exercised only during the authorized diversion season. (0000040)

15. This permit is subject to the continuing authority of the State Water Resources Control Board to reduce the amount of water named in the permit upon a finding by the Board that the amount is in excess of that reasonably needed to be held in storage for the authorized use. No action will be taken by the Board without prior notice to the owner and an opportunity for hearing. (0000042)

16. The reservoir shall be kept open to the public for recreational use, subject to a reasonable charge for any services or facilities that are provided by permittee. Failure to allow public access may result in revocation of the permit or reduction in the amount of water that may be stored. (0030045)

17. No water shall be diverted under this permit until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the flows required by the conditions of this permit. Said measuring device shall be properly maintained. (0060046)

18. For the protection of fish and wildlife in Huichica Creek, permittee shall during the period: (a) from November 1 through February 29 bypass a minimum of 10 cubic feet per second, (b) from March 1 through April 30 bypass a minimum of 2.5 cubic feet per second and (c) from April 1 through June 15 bypass a minimum of 2.0 cubic feet per second. The total streamflow shall be bypassed whenever it is less than the designated amount. (0140060)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

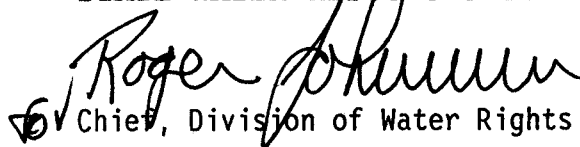
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: April 11, 1996

STATE WATER RESOURCES CONTROL BOARD


Chief, Division of Water Rights